



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION IX

75 Hawthorne Street

San Francisco, CA 94105-3901

November 15, 2010

Mr. Paul Page  
Federal Transit Administration, Region IX  
201 Mission Street, Suite 1650  
San Francisco, CA 94105

Subject: Draft Environmental Impact Statement for the Hercules Intermodal Transit Center,  
Hercules, California (CEQ #20100369)

Dear Mr. Page:

The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and Section 309 of the Clean Air Act. Our detailed comments are enclosed.

We commend the Federal Transit Administration (FTA) and the City of Hercules for seeking to increase access to and connectivity of public transportation services. We also commend the inclusion of pedestrian, bicycle, and multi-use trail improvements and amenities, and the incorporation of renewable energy elements, with the goal of achieving LEED certification. We encourage the incorporation of as many green infrastructure approaches (see <http://cfpub.epa.gov/npdes/greeninfrastructure/technology.cfm>) as possible to minimize impacts of runoff to San Pablo Bay.

EPA has some concerns and recommendations about the analysis of impacts to wetlands and waters of the U.S., air quality, and consultation with the Capitol Corridor Joint Powers Authority. Therefore, we have rated this document EC-2, *Environmental Concerns, Insufficient Information*. Please see the attached *Rating Factors* for a description of our rating system.

We appreciate the opportunity to review this DEIS. When the Final EIS is released for public review, please send two copies to the address above (mail code: CED-2). If you have any questions, please contact Carolyn Mulvihill, the lead reviewer for this project, at 415-947-3554 or [mulvihill.carolyn@epa.gov](mailto:mulvihill.carolyn@epa.gov).

Sincerely,

A handwritten signature in black ink that reads "Carolyn Mulvihill for". The signature is fluid and cursive, with the word "for" written in a smaller, simpler script at the end.

Connell Dunning, Transportation Team Supervisor  
Environmental Review Office  
Communities and Ecosystems Division

Enclosures:

Summary of EPA Rating Definitions  
EPA's Detailed Comments

cc: Lisa Hammon, Assistant City Manager, City of Hercules  
Ian Liffman, U.S. Army Corps of Engineers  
John Cleckler, U.S. Fish and Wildlife Service  
Kathryn Hart, San Francisco Bay Regional Water Quality Control Board  
Lindy Lowe, Bay Conservation and Development Commission  
Craig Goldblatt, Metropolitan Transportation Commission

## **Wetlands and Other Waters of the United States**

EPA has a few concerns and recommendations regarding the analysis of potential impacts to wetlands and waters of the United States resulting from the proposed project.

### *John Muir Parkway Extension*

The Draft Environmental Impact Statement (DEIS) states that the construction of the John Muir Parkway extension would require construction of a culvert crossing of the North Channel of Refugio Creek. The DEIS does not demonstrate that potential impacts to the North Channel resulting from this construction have been minimized to the maximum extent practicable. The Final Environmental Impact Statement (FEIS) should identify what other alternatives for the road crossing were considered and whether it is possible to construct a bridge crossing rather than a culverted crossing to reduce impacts to the channel. The FEIS should also discuss what criteria were used to choose the potential culvert sizes, and include information on what size storm the proposed culverts would pass.

#### ***Recommendations:***

- Identify in the FEIS what other road crossing alternatives were considered and whether it is possible to construct a bridge crossing to reduce impacts to the channel.
- Discuss in the FEIS what criteria were used to choose culvert sizes, including information on what size storm the proposed culverts would pass.

### *Union Pacific Railroad Bridge Replacement*

In the description of the Union Pacific Railroad (UPRR) bridge replacement, the DEIS does not indicate how the timber trestles will be removed, or whether they have been treated with creosote. The DEIS also does not discuss potential impacts from removal of the trestles. The FEIS should include this information, as well as a discussion of how storm water runoff from the tracks will be directed and the amount of new riprap that will be placed in the creek.

#### ***Recommendations:***

- Include a discussion in the FEIS of how the timber trestles of the existing UPRR bridge will be removed, whether they have been treated with creosote, and what impacts may result from their removal.
- Include a discussion in the FEIS of how stormwater runoff from the tracks will be directed in the new bridge structure, and clarify how much new riprap will be placed in the creek as a part of this element of the project.

## *Dredging*

The Water Resources chapter of the DEIS states that approximately 400 cy of San Pablo Bay sediment would be dredged as part of the Refugio Creek Restoration. However, no quantitative data is provided in the Biological Resources chapter to identify the extent of impact to various habitat types from this dredging. This information should be included in the FEIS. Also please include a discussion on the status of consultation with the U.S. Fish and Wildlife Service.

The FEIS should also clearly identify the extent of proposed dredging on a figure. For example, clarify on the legend of Figure 4.9-1 or in the text whether the indicated 150ft by 40ft footprint is the full extent of proposed dredging. Also demonstrate in the FEIS that the dredging footprint is the minimum necessary to complete the project.

The DEIS indicates that the City of Hercules will coordinate sediment testing with the Dredged Material Management Office (DMMO). If dredged material is proposed for aquatic placement, coordination with the DMMO is required. However, if only upland placement is proposed, coordination through the DMMO is optional. Depending on the disposal option chosen, sediment testing could be required by the Regional Water Quality Control Board (RWQCB), U.S. Army Corps of Engineers (USACE), EPA, and/or Bay Conservation and Development Commission.

Section 4.10.3, Mitigation Measure WR-1a states that "[i]f the results of the SAP indicate that water quality will not be impacted by dredging, a consolidated Dredging-Dredge Material Reuse/Disposal permit would be issued by the USACE," which is "functionally equivalent to the RWQCB Report of Waste Discharge." While DMMO does use a consolidated dredging permit application, there is currently no consolidated dredging permit. The project will require a Clean Water Act (CWA) 404/River and Harbors Section 10 permit from USACE as well as a separate CWA 401 Certification/Waste Discharge Requirements from RWQCB.

### ***Recommendations:***

- Include quantitative information in the Biological Resources chapter of the FEIS regarding the estimated impacts to various habitat types from bay dredging. Also include a discussion on the status of consultation with the U.S. Fish and Wildlife Service.
- Include in the FEIS a figure that illustrates the dredging footprint. Demonstrate in the FEIS that the dredging footprint is the minimum necessary to complete the project.
- Clarify in the FEIS where dredged material is proposed to be disposed, which will inform the required coordination process.

### *Compensatory Mitigation*

The DEIS states that a jurisdictional determination (JD) of waters of the U.S. for the project site was issued by the USACE in December 2008, but that project design modifications, which enlarged the study area boundary and potential impacts, occurred in 2009. A new delineation was prepared in fall 2009 but has not yet been verified by the USACE. The JD of this delineation should be issued prior to the FEIS so that verified impacts can be included in the FEIS.

The compensatory mitigation proposal for these impacts must comply with the 2008 EPA/USACE Mitigation Rule (40 CFR 230, Subpart J). The DEIS indicates that compensatory mitigation for impacts to waters of the U.S. could be provided at the North Channel, Refugio Creek, and/or Chelsea Wetlands. According to a City of Hercules website on the Chelsea Wetlands Restoration project, the City has obtained over \$240,000 in local and federal funding for the restoration project. Compensatory mitigation “credit” can only be given for work done in these areas above and beyond any work already funded by federal, state, or local grants.

#### ***Recommendations:***

- Obtain the JD and include information on potential impacts to waters of the U.S. in the FEIS.
- Ensure that mitigation proposed for the impacts resulting from this project is not part of a previously-funded restoration project and complies with the 2008 Mitigation Rule.

### **Air Quality**

In the Air Quality chapter, the DEIS lists the criteria for determining project conformity, including the project being included in a currently conforming transportation plan and transportation improvement program (TIP). However, the following analysis does not state whether the project is included in these documents. The FEIS should include this information.

The DEIS also states that “USEPA has granted a one-year grace period from the effective date of the new nonattainment designation before transportation conformity applies (USEPA 2009). Therefore, transportation conformity is not required for the PM<sub>2.5</sub> nonattainment area, and a hot-spot evaluation for PM<sub>2.5</sub> was not completed for this project.” The referenced grace period will end on December 14, 2010. Since this project will not receive a Record of Decision by that date, FTA will need to follow the new procedures for projects in PM<sub>2.5</sub> nonattainment areas, which is to engage the metropolitan planning organization (in this area, the Metropolitan Transportation Commission [MTC]) to determine whether this project is a “project of air quality concern (POAQC).” If the project is a POAQC, then a PM<sub>2.5</sub> hot spot analysis must be performed. If the project is

not a POAQC, then FTA will just need to complete the interagency consultation process to get concurrence on that decision with the appropriate interagency partners.

Finally, Table 4.7-1 lists the total net operational emissions for the project and indicates that all emissions will decrease. The FEIS should clarify what the model-year is for these estimates and provide an explanation for the decreases (decreases in vehicle traffic versus improving vehicle fuels and engines, etc.).

***Recommendations:***

- Clarify in the FEIS whether the project is included in the region's conforming transportation plan and TIP.
- Consult with MTC on whether the project is a POAQC. If it is determined to be a POAQC, perform a PM<sub>2.5</sub> hot spot analysis and include the results of that analysis in the FEIS. Report the outcome of consultation with MTC in the FEIS.
- Clarify in the FEIS what the model-year for the emissions estimates is, and provide an explanation for the decreases in emissions.

**Coordination with Capitol Corridor Joint Powers Authority**

The DEIS states that the proposed project would provide access to the Capitol Corridor intercity passenger rail line, but does not discuss FTA and the City of Hercules' coordination with the Capital Corridor Joint Powers Authority (CCJPA). It is unclear whether CCJPA has agreed to add a Hercules stop to its Capitol Corridor route. This information should be clarified in the FEIS.

***Recommendation:***

- Include in the FEIS a discussion of the status of consultation between FTA, the City of Hercules, and the CCJPA. Clarify whether CCJPA has agreed to add a Hercules stop to its route.